

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

Amendment of Section 73.622(b),
Table of Allotments,)Digital Television Broadcast Stations
Fort Myers, Florida)MM Docket No. 00-180
RM-9956To: Chief, Video Division
Media Bureau

**OPPOSITION TO PETITION FOR RECONSIDERATION
OF COX BROADCASTING, INC.**

Fort Myers Broadcasting Company ("FMBC") opposes the petition for reconsideration filed by Cox Broadcasting, Inc. ("Cox") on December 20, 2002. Therein Cox reargues its position that a DTV Channel 9 allotment at Fort Myers, Florida, will cause harmful interference to analog station WFTV(TV), Channel 9, Orlando, Florida, and asks, again, that the Commission impose conditions on FMBC's use of DTV Channel 9 at Fort Myers.

Cox faults the Report and Order, DA 02-3154 (released November 20, 2002) for failing to adequately discuss its request to condition WINK-DT's operations on DTV Channel 9, Fort Myers, Florida, upon a demonstration that actual interference levels to WFTV do not exceed predicted interference levels. However, the Report and Order found that "FMBC's proposal complies with the city-grade service and interference protection requirements, and is otherwise consistent with the Commission's technical standards for modification of a DTV allotment." It concluded that Cox and other objectors had failed to demonstrate that the public interest would not be served by grant of the Channel 9 allotment.

Cox has not cited a single instance in which a DTV allotment meeting all technical standards was subject to the conditions Cox seeks to impose on DTV Channel 9 at Fort Myers. No elaborate explanation is required for the proposition that allotments meeting all technical standards are not made conditionally. The Report and Order was quite clear that Cox had failed to demonstrate the public interest would not be served by grant of the Channel 9 DTV allotment. No additional analysis was required to dispose of Cox's baseless request.

Cox also argues that the Channel 9 DTV allotment in Fort Myers should have been conditioned on WINK-DT moving to Channel 11 at the end of the digital television transition period. This is yet another attempt to condition an allotment which meets all applicable technical standards. Proposals which meet all applicable standards are not granted conditionally. Once again, it is enough that the Report and Order explains that Cox has failed to demonstrate that the public interest would not be served by grant of the Channel 9 DTV allotment. No elaborate analysis is needed to dispose of Cox's argument.

In this connection, Cox contends that the Report and Order erred when it characterized Cox's claims of potential harm from a post-digital transition Fort Myers DTV station on Channel 9 as "speculative." The fact is Cox's claims of potential post-transition harm are both speculative and irrelevant. The Channel 9 DTV allotment at Fort Myers meets all relevant technical standards and Cox is not entitled to demand conditions on the Fort Myers DTV allotment which are not imposed on other technically compliant DTV allotments.

It is well settled that reconsideration is not granted merely for the purpose of rearguing matters on which a tribunal has already deliberated and spoken. See WWIZ, Inc., 37 FCC 685, 686 (1964), aff'd subnom. Lorain Journal Co. v. FCC, 351 F. 2d 824 (D.C. Cir. 1965), cert. denied, 383

U.S. 967 (1966). Yet this is exactly what Cox has done in its petition for reconsideration. The Report and Order correctly disposed of Cox's arguments and no adequate reason exists to revisit them on reconsideration.

In view of the foregoing, Cox's petition for reconsideration should be dismissed or denied.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph A. Belisle". The signature is fluid and cursive, with the first name "Joseph" and last name "Belisle" clearly distinguishable.

Joseph A. Belisle
Counsel for Fort Myers Broadcasting Company

February 26, 2003

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CERTIFICATE OF SERVICE

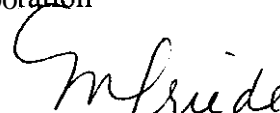
I, Maria I. Priede, hereby certify that I have this 26th day of February, 2003, caused a copy of the foregoing "Opposition to Petition for Reconsideration of Cox Broadcasting, Inc." to be delivered by U.S. First Class Mail, postage prepaid, to the following:

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